SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1945

No. 274

F. O. ROBERTSON, APPELLANT,

vs.

THE PEOPLE OF THE STATE OF CALIFORNIA

APPEAL FROM THE SUPERIOR COURT OF VENTURA COUNTY, STATE OF CALIFORNIA

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[fol. 1]

IN THE JUSTICE'S COURT OF VENTURA TOWNSHIP, COUNTY OF VENTURA, STATE OF CALIFORNIA

THE PEOPLE OF THE STATE OF CALIFORNIA, Plaintiff,

vs.

F. O. ROBERTSON, Defendant

COMPLAINT—Filed September 1, 1944

Count I

Personally appeared before me at the place and date hereinafter stated A. J. O'Lein, who, first being duly sworn, complains and says:

That F. O. Robertson ha- committed the crime of Violation of Section 703(a) of the Insurance Code in the manner and form as follows:

The said F. O. Robertson on or about the 28th day of August, 1944, within the Ventura Township, County of Ventura, State of California, and before the filing of this Complaint, did then and there wilfully and unlawfully act as an agent for a non-admitted insurer, to-wit: the First National Benefit Society, in the transaction of insurance business in this State, to-wit: the solicitation and sale of a policy of insurance to the said A. J. O'Lein, complainant herein; contrary to the form, force and effect of the Statute [fol. 2] in such case made and provided and against the peace and dignity of the people of the State of California.

Count II

For a further and separate cause of action, being a different offense of the same class of crimes and offenses as the charge set forth in Count I hereof, and connected in its commission, the said complainant further complains and says:

That F. O. Robertson committed the crime of violation of Section 1642 of the Insurance Code in the manner and form as follows:

The said F. O. Robertson on or about the 28th day of August, 1944, within the Ventura Township, County of Ventura, State of California, and before the filing of this Complaint, did then and there, wilfully and unlawfully solicit and sell to A. J. O'Lein a policy of insurance in the First National Benefit Society, the said defendant not then and there being licensed by the Insurance Commissioner of the State of California to act as an insurance agent, broker or solicitor, contrary to the form, force and effect of the Statute in such case made and provided and against the peace and dignity of the people of the State of California.

Said complainant therefore prays that a warrant be issued for the arrest of said F. O. Robertson, and that [fol. 3] he may be dealt with according to law.

(Signed) A. J. O'Lein.

Subscribed and sworn to before me, at my Office in said Township this 1st day of September, 1944.

(Signed) Glenn D. Corey, Justice of the Peace of Said Township.

[File endorsement omitted.]

[fol. 4] [File endorsement omitted]

IN THE JUSTICE'S COURT OF VENTURA TOWNSHIP

[Title omitted]

NOTICE OF APPEAL—Filed September 29, 1944

To the Honorable Glen D. Corey, Justice of the Above Entitled Court and to Arthur M. Waite, District Attorney of Ventura County, California:

You and each of you will please take notice that the above named defendant in the above entitled action hereby appeals to the Superior Court of the State of California, in and for the County of Ventura, from that certain judgment of conviction, and the whole thereof, rendered in the above entitled Court on the 29th day of September, 1944.

[fol. 5] This appeal is taken on both questions of law and fact.

Dated this 29th day of September, 1944.

(Signed) Robert R. Weaver, Attorney for Defendant.

Received copy of the within Notice of Appeal this 29 day of Sept. 1944.

(Signed) Julien G. Hathaway, Dep. Dist. Atty., Attorney for the People.

[fol. 6] [File endorsement omitted]

IN THE JUSTICE'S COURT OF VENTURA TOWNSHIP

[Title omitted]

STATEMENT ON APPEAL—Filed September 29, 1944

To the Honorable Glen D. Corey, Justice of the Above Entitled Court and to Arthur M. Waite, Esq., District Attorney of Ventura County, State of California:

Whereas, the defendant, F. O. Robertson, having on the 29th day of September, 1944, duly taken an appeal from the judgment therein entered in the said above named Justice's Court of Ventura Township for the County of Ventura, State of California on the said 29th day of September, 1944,

You and each of you are hereby notified that said defendant, F. O. Robertson, in the above entitled cause now presents this, his statement of grounds of appeal and points [fol. 7] upon which he relies upon appeal from the above entitled court to the Superior Court of the State of California in and for the County of Ventura, as follows:

I

That the evidence taken and heard by the Court in said cause is insufficient to justify the judgment in that it discloses that all of the actions of the defendant consisted of a series of events constituting transactions in interstate commerce and, therefore, were not subject to prosecution under the laws of the State of California.

II

That the Judgment is contrary to law.

III

That the judgment is contrary to evidence.

IV

That the judgment is contrary to the law and the evidence.

V

That the court erred in its decisions of matters of questions of law arising during the course of the trial.

VI

That the complaint on which this action is predicated fails to state a public offense in that it appears on the face thereof that the acts of the defendant complained of were, if true, done by him in accordance with the provisions of the Fourteenth Amendment to the Constitution of the [fol. 8] United States and the laws of the United States pertaining to the transactions of interstate commerce.

VII

That the court was without jurisdiction to entertain this proceeding for the reason that it appears on the face of the complaint that the acts of the defendant complained of were those pertaining to transactions in interstate commerce.

VIII

That Sections 703(a) and 1642 of the Insurance Code of the State of California are unconstitutional and in violation of and contrary to the commerce clause of the constitution of the United States and the Fourteenth Amendment thereof.

Wherefore, Defendant prays that the court allow and settle the above as and for his statement on appeal.

(Signed) Robert R. Weaver, Attorney for Defendant.

The Court does now settle and allow the foregoing Statement on Appeal and hereby certifies that the same is a true

and correct statement of the issues had in the above entitled action.

Dated this — day of ——, 1944.

——— ———, Justice of the Peace of Ventura Township, Ventura County, Calif.

[fol. 9] Received copy of the within Statement on Appeal this 29 day of Sept., 1944.

(Signed) Julien G. Hathaway, Dep. Dist. Atty., Attorney for the People.

[fol. 10] [File endorsement omitted.]

IN THE JUSTICE'S COURT OF VENTURA TOWNSHIP, COUNTY OF VENTURA, STATE OF CALIFORNIA

Glenn D. Corey, Esq., Justice

No. 27739

THE PEOPLE OF THE STATE OF CALIFORNIA, Plaintiff,

vs.

F. O. ROBERTSON, Defendant

Charge: Violation of Section 703 (a) and Section 1642, Insurance Code

Reporter's Transcript of Proceedings—Filed October 19, 1944

Ventura, California, Tuesday, September 26, 1944, 2:00 o'clock p. m.

APPEARANCES:

For the People: Julien G. Hathaway, Esq., Deputy District Attorney.

For the Defendant: Robert R. Weaver, Esq.

[fol. 11] Ventura, California, Tuesday, September 26, 1944, 2 P. M.

The Court: The People of the State of California versus F. O. Robertson.

Mr. Hathaway: This was the time set for trial, if the court please, in that matter and I am ready to proceed.

The Court: Is the defendant ready?

Mr. Weaver: The defendant is ready.

The Court: Mr. Weaver, do you waive the reading of the complaint?

Mr. Weaver: We waive the reading of the complaint, your Honor.

Mr. Hathaway: I believe, if I am not mistaken, the reading of the complaint and the arraignment and plea have all been taken care of already in the due and regular form and time in this court and the matter is coming on at this time for trial.

The Court: For trial.

Mr. Hathaway: I believe Mr. Robertson or his attorney was delivered a copy of the complaint at the time of the arraignment.

The Court: That is correct.

Mr. Hathaway: Mr. O'Lein, will you come forward and be sworn, please?

[fol. 12] A. J. O'Lein, called as a witness on behalf of the People, having been first duly sworn, testified as follows:

Direct examination.

By Mr. Hathaway:

Q. Your full name is A. J. O'Lein?

A. Yes, sir.

Q. And where do you live, Mr. O'Lein?

A. I did live at 1561 Santa Ynez. We are just moving.

Q. You just moved in the last few days?

A. Yes, sir.

Q. But your residence on or about the 28th day of August, 1944, was the address you have just given?

A. Yes, sir.

Q. On Santa Ynez, was it?

A. Santa Ynez Street, yes, sir.

Q. Do you know the defendant, F. O. Robertson, who sits here in court?

A. I met him that day.

Q. By that day you mean the 28th day of August?

A. Yes, sir.

Q. Or on or about that date, of this year?

A. On or about that date, yes, sir.

Q. How did you meet him?

A. He called at my house.

Q. About what time of day was that?

A. I am not sure, but I believe it was about the middle of the afternoon.

Q. At the address you have given on Santa Ynez?

A. Yes, sir.

Q. That is Santa Ynez Street here in the City of Ventura?

[fol. 13] A. In the City of Ventura.

Q. Did he state what business he had with you or the purpose of his visit?

A. He said that he had gotten a card that I had put in the mail.

Q. Did he say whether he represented himself or some organization?

A. He said he represented this insurance company,—the First National——

Q. Do you remember the name?

A. The First National or National Insurance Company.

Q. The First National Insurance Company?

A. I am not sure whether it was First National or National. I think it was National.

Q. Perhaps we can identify it a little more fully in just a moment. Let me digress from that question just a moment. Had you ever received any literature, cards or other—perhaps erroneously using the term—advertisement for any insurance company, that you had answered?

A. Just one, yes.

Q. You had from that insurance Company?

A. Yes, sir, a card.

Q. And did you answer the card?

A. I did.

Q. And request information?

A. I just put my name and address on it, and one thing another, and sent it in. I think everything was on the card.

Q. I will show you here, Mr. O'Lein, a kind of a reddish colored card—postal card—bearing, aside from the—I will [fol. 14] try to read the thing into evidence as it is. Bearing in the upper left-hand corner a block in black, with a hollow circle, reading, "Postage will be paid by addressee,"

and in the right-hand upper corner, in a similar block, "No postage stamp necessary if mailed in the United States," and a postal cancellation "Ventura, Calif., 1944," and in the center of the target stamp "Aug. 20 5 P. M. Business reply card. First National Benefit Society, First National Bank Building, Phoenix, Arizona." And on the reverse, across the top of the card, "No obligation—Fill in—Mail today. First National Benefit Society, First National Bank Building, Phoenix, Arizona.". The words in printing, "Gold Seal Emblem of Dependability." And the message, "Please send me, without obligation, details of 'Gold Seal' Policies. Full Name Alvin J. O'Lein. Street Address 1561 Santa Ynez. City of Ventura. State Calif." And underneath that the words, "We pay postage." Will you look at the writing on there, Mr. O'Lein, and state if that is your signature (handing document to the witness.)

A. That is.

Q. (Continuing) Or tell me if that is your signature.

A. That is.

Q. Is that the card which you signed and to which Mr. Robertson made reference when he stated he had gotten your inquiry?

A. That is right.

Q. That is the only insurance company you have in mind [fol. 15] when you say "The National Insurance Company"?

A. That is the company I have in mind.

Q. So you actually mean the First National Benefit Society?

A. That is right.

Mr. Hathaway: Mr. Weaver has just handed me this card. I asked him if it would be satisfactory to receive it in evidence—or to offer it, and I am offering it with his consent.

The Court: As People's Exhibit No.——

Mr. Hathaway: People's Exhibit 1.

(The document was thereupon received in evidence and marked People's Exhibit No. 1.)

Q. What did he say to you? If you will just detail the conversation to the best of your ability, what he said and what you answered.

A. As near as I remember, he said he came in response to this card that I had mailed. And I said to him I had

mailed such a card. And then he started explaining his policy to me, and one thing another.

Q. Did he state that he had the authority to sell the insurance to you?

A. I do not believe that was mentioned. I do not believe I questioned whether he had authority to sell it or not.

Q. But he did discuss insurance policies with you?

A. He did.

Q. Did he solicit your purchasing of a policy of insur-
[fol. 16] ance?

A. He did.

Q. With that company?

A. He did.

Q. What was the deal on the policy, if you did buy a policy?

A. The deal was a fellow my age—I do not know whether that was mentioned particularly or not—usually has trouble in getting some insurance. That is the reason I sent the card in the first place,—I wanted a little extra insurance, if I could and walk into this thing. And he explained the insurance policy as any insurance man would, and I don't know,—I was hard to convince.

Q. Did you buy a policy?

A. I bought a policy.

Q. What was the premium per month or per year? How much was it to be?

A. I think $36 a year, and I paid a quarter—$9.00.

Q. Was there anybody else there besides Mr. Robertson and yourself?

A. Mrs. O'Lein was there in the house.

Q. Did she buy a policy?

A. Yes.

Q. During this whole discussion you and Mrs. O'Lein and Mr. Robertson were present?

A. She was in the kitchen most of the time, and after talking with him a while I called her in, and I said, "I believe this looks all right. Let's buy a couple of them." I do not know that she said much of anything, but to go ahead and do as I pleased about it.

Q. How much of a check did you give Mr. Robertson?

A. $18.00.

Q. What did that cover?

A. A quarter on each policy.

[fol. 17] Q. That is, on the policy to be issued to you and the policy to Mrs. O'Lein?

A. Yes, sir.

Q. How was the check made out? Was it made out to the First National Benefit Society?

A. No; it was made out to Mr. Robertson. He asked if I would just as soon make the check payable to him, and I said I guessed it was all right, and I did.

Q. I show you here a check, Mr. O'Lein, drawn on the check form of Ventura Branch, Bank of America National Trust and Savings Association, the number being blank, "Ventura, Calif., Aug. 29, 1944. Pay to the order of Fred Robertson, $18.00" in words and figures, and signed "A. J. O'Lein," bearing on the reverse the endorsement "Fred Robertson." Will you look at that check and tell me if that is the check which you gave to Mr. Robertson (handing check to the witness.)

A. That is it.

Q. (Continuing.) In payment of the insurance?

A. Yes, that is my check.

Mr. Hathaway: If the court please, I would like to offer this in evidence as People's Exhibit No. — or let me go further.

Q. This check was returned to you from the Bank of America with your regular monthly statement in the following month?

A. Yes, sir.

Q. That is, cashed and passed through the bank?

A. Yes, sir.

[fol. 18] Mr. Hathaway: I offer this check in evidence as People's Exhibit No. 2, if the court please.

(The check was thereupon received in evidence and marked People's Exhibit No. 2.)

Q. Did you receive anything from Mr. Robertson as evidence of payment of the two quarterly payments you have mentioned?

A. Yes. There was a little, narrow slip, I believe, that was torn off from each policy, about that wide (indicating) and that long (indicating).

Q. The policy or the application?

A. The application.

Q. You filled in an application at that time?

A. I filled in an application.

Q. And you did not receive the policy that day, did you?

A. No. I did not receive the policy for several days.

Q. And the receipt which you got came from the bottom, you say, torn off of the application form?

A. I believe that is where it came from,—a little, narrow slip. I believe I gave that to you.

Q. Did Mrs. O'Lein receive one at the same time?

A. She did.

Q. I will show you here, Mr. O'Lein, what purports to be a receipt, on a narrow blue slip of paper, and it bears the heading, "First National Benefit Society. Date 8-29-44. Receipt," and the words, "Received of Alvin J. O'Lein the sum of"—and then a certain portion of it has been crossed [fol. 19] out—"Certificate into the First National Benefit Society. Deputy (signed) Fred Robertson. Address L. A. First National Bank Building, Phoenix, Arizona," and certain other words, and at the top, in hand-written script, "Pd. $9.00 (in figures) Sept-Oct-Nov." On the back of this there are certain other figures, which, as far as I know, have no bearing on this case. Have you seen that before, sir? (Handing document to the witness.)

A. Yes, sir.

Q. What is that?

A. That is the slip that I got, which was torn off of the bottom of the application.

Q. Did you ever see the slip which Mrs. O'Lein received?

A. Yes. He handed them both to me.

Q. I show you a document on the same paper and in the same form, and it appears to be the same in every respect, except in the words "Received of Vendla S. O'Lein," and ask you if you have seen this document before. (Handing document to the witness.)

A. Yes, sir.

Q. What is that?

A. That is the same as this one right here (indicating). He handed me them both—handed them both to me. That is torn off the bottom of her application.

Mr. Hathaway: If the court please, I offer these two documents in evidence, in the order in which they were identified, as People's Exhibits 3 and 4, I believe. In other [fol. 20] words, 3 would be the receipt of Alvin J. O'Lein,

and 4 would be the receipt of Vendla S. O'Lein, if they might be appropriately marked.

(The documents were thereupon received in evidence and marked, respectively, People's Exhibit No. 3 and People's Exhibit No. 4.)

Q. Did you ever receive a policy from the First National Benefit Society?

A. Yes, sir.

Q. I will show you here, Mr. O'Lein, a document which is captioned on its face "Application for Membership, First National Benefit Society," and so forth, and in the upper left-hand corner, underneath the caption, "Policy No. 154476. Date issued 9-1-44," and, for brevity's sake, I will not read this entire document into the evidence. Have you ever seen this before, sir? (Handing document to the witness.)

A. Yes, sir.

Q. Is that the policy of insurance which was issued to you?

A. That is the policy.

Q. (Continuing.) By the First National Benefit Society?

A. That is it.

Q. And the only policy you bought from them or had issued to you?

A. Yes, sir.

Q. How did you receive that?

A. By mail.

Q. Do you know about when that came in?

A. I would say probably the 3rd or 4th of September. It was only a few days.

Q. Was it just recently?

[fol. 21] A. Yes; just this month,—early in the month.

Q. I see.

A. Just a few days after I wrote the application.

Mr. Hathaway: If the court please, I offer this document in evidence as People's Exhibit No. 5.

(The document was thereupon received in evidence and marked People's Exhibit No. 5.)

Mr. Hathaway: I believe that is all. Just a minute, Mr. O'Lein. Mr. Weaver may want to cross-examine you.

Cross-examination.

By Mr. Weaver:

Q. Mr. O'Lein, you say you received the policy itself through the mail?

A. Yes, sir.

Q. You signed an application, did you not, for Mr. Robertson?

A. I did.

Q. That was an application for a policy, was it not?

A. Yes, sir.

Mr. Weaver: Where is the policy?

Mr. Hathaway: It is in evidence.

(The document was thereupon handed to Mr. Weaver.)

By Mr. Weaver:

Q. I notice, Mr. O'Lein, on the front of the policy which you received, filled in in typewriter, a copy of an application.

A. Yes.

Q. Is that the copy of the application that you made for [fol. 22] the policy itself?

A. It might be in here. It is not the one I signed.

Q. No, but is it the same application?

A. Well, I would not be sure. I think so. It looks like it.

Q. Then did you receive any other notation with the policy, when it came, any other document or paper or notation?

A. I think there was a kind of a welcome message to the Society.

Q. And a notification to make all payments direct to the Society at Phoenix, Arizona?

A. I do not recall that.

Q. In your discussion with Mr. Robertson was there a statement as to how these premiums were to be made—premium payments were to be made?

A. I do not recall that.

Q. Were you to pay them to Mr. Robertson?

A. No; I imagine they were to be paid to the company. I do not just remember that part of the conversation.

Q. Mr. O'Lein, did you say you have had some trouble in getting insurance?

A. At my age a fellow usually does.

Q. And that is the reason that you applied to this particular company for a policy?

A. That is the reason I became interested in that policy. I think I had heard something about that policy over the radio and seen literature, and it was just handy.

Q. You heard about the Society before and then when you got the card you mailed the card in?

[fol. 23] A. I guess just because the card was right there handy, and I wrote my name and threw it in with some other mail. I expected to hear some more by mail from them.

Q. You knew that the company was an Arizona company?

A. Yes.

Q. At the time that you applied?

A. Yes.

Q. Have you been given any information by anyone about the stability of this company?

A. Well, not particularly, no.

Q. Why did you file a complaint?

A. A gentleman from the Insurance Commission called on me.

Q. Had you inquired of him about the policy?

A. No. Another insurance man came out and seen me about it after he had heard that I bought it.

Q. What company did that man represent?

A. I am not sure. I do not remember. But we did not talk much about it or anything like that. He just asked these questions and then the next day, I think it was, this man came from the Insurance Commission.

Q. You were satisfied with the transaction until someone from the Insurance Department approached you about it?

A. That is right. I did not give it much thought or anything else. I just figured it was not a very big investment and if it was all right it would be enough to have for a coffin and something like that.

Q. A policy in this company?

A. Yes.

[fol. 24] Q. You did not give us your present address.

A. I beg pardon?

Q. Your present address, where you live now.

A. Gosh, I don't live.

Q. I mean, what is your mail address now.

A. It will be St. Paul, Minnesota, for the next six months.

Q. You do not know what street or number?

A. Yes. 689 Simpson Avenue.

Q. But within that time it is here at the same address in Ventura?

A. It was at that time, but we have given up that address now and we are leaving to go down there. We will be gone six or eight months all together, going down to take care of my mother.

Q. Oh, I see.

A. At the present time I am a man without a country.

Q. Excuse me.

A. Or I mean a state.

Mr. Weaver: That is all.

Mr. Hathaway: Pardon me just a minute.

Redirect examination.

By Mr. Hathaway:

Q. Do I understand—I probably misunderstood you also. You are leaving to spend the next six months in St. Paul?

A. Yes.

Q. Minnesota?

A. Yes. Five, six, seven or eight months, something like that. I do not know just exactly.

[fol. 25] Q. At the time when you bought this policy, Mr. O'Lein, did you know that the First National Benefit Society was not an admitted company or admitted insurance carrier within the State?

A. I did not.

Q. Did you know whether or not Mr. Robertson did or did not have a license to sell insurance in the State of California?

A. I did not.

Q. And he did not discuss it with you?

A. No, he did not. Nothing was said about that at all.

Mr. Hathaway: I believe that is all.

Mr. Weaver: That is all.

(Witness excused.)

Mr. Hathaway: Mrs. O'Lein.

VENDLA SANDBERG O'LEIN, called as a witness on behalf of the People, having been first duly sworn, testified as follows:

Direct examination.

By Mr. Hathaway:

Q. Will you state your full name, please?

A. Vendla Sandberg O'Lein. I usually write it "S."

Q. Is that V-e-n or V-a-n?

A. It is V-e-n-d-l-a.

Q. I wondered whether it was spelled wrong and should be V-a-n. You are the wife of A. J. O'Lein, who was just on the witness stand?

A. I am.

Q. And lived at the time he mentioned at 1561 Santa Ynez Street?

A. Yes.

[fol. 26] Q. At the same place that he did?

A. Yes.

Q. Do you remember seeing Mr. Robertson, who sits here in court?

A. I do.

Q. And when was that?

A. Well, I cannot state the exact date, but it was the latter part of August.

Q. Was it at the same time or under the same circumstances——

A. It was.

Q. (Continuing)—as just testified to by Mr. O'Lein?

A. Yes, it was.

Q. Did you not enter into the conversation with Mr. Robertson with reference to the purchase of a policy of insurance?

A. No, I cannot say that I did, because I had work to do and I just did not have time to stay in there and listen to the conversation. Mr. O'Lein was taking care of it, and after while Mr. O'Lein called me in and said, "I believe we should buy some of this insurance," and I said, "All right. Go ahead." And that was all there was to that, and I went back to my work.

Q. And you signed an application?
A. Yes.
Q. To give Mr. Robertson the information?
A. Yes.
Q. Who filled in the application form?
A. Mr. Robertson.
Q. You answered the questions that were to be filled in there?
A. Yes. I cannot remember that I answered more than one question. He asked me if I had had a doctor in the last five years, which I said I had not.
[fol. 27] Q. But you did generally answer the questions?
A. Oh, yes.
Q. Which he asked you?
A. I did.
Q. And he filled them in on a form which he had; is that right?
A. Yes, that is right.
Q. Were you there when Mr. O'Lein gave him the check and Mr. Robertson gave him a receipt or receipts?
A. I was not right in the room. The kitchen is right off the living room over there and I was in the next room. I remember, though, asking Mr. Robertson how much money it would take today, and he said $12.00. That was evidently for two months. Mr. O'Lein gave him a check for $18.00, covering the period of three months.
Q. Did you see Mr. Robertson give Mr. O'Lein the receipts which have been read into evidence here?
A. I saw the receipts afterwards. I do not recall that I saw him give them to him.
Q. I see. Did you later yourself receive a policy of insurance?
A. Yes, I did.
Q. From the First National Benefit Society?
A. I did.
Q. And about when did you receive such a policy?
A. The first part of September, and I cannot give the exact date.
Q. Fairly recently?
A. Yes.
Q. I will show you what purports to be an application [fol. 28] and policy—or copy of an application for membership and policy, bearing No. 1554477, date issued 9-1-44, and

ask you if you have ever seen this document before. (Handing document to the witness.).

A. I think so. This is the policy I received in the mail.

Q. And that, you state, you received recently, shortly after the first of September?

A. Yes.

Q. And this is the only policy of insurance that you have ever bought or had issued to you by the First National Benefit Society?

A. It is.

Mr. Hathaway: If the court please, I would like to offer this in evidence as People's Exhibit next in order. I think it is No. 6.

The Court: No. 6.

Mr. Hathaway: It is in form the same as the policy which was just immediately previously offered.

(The document was thereupon received in evidence and marked People's Exhibit No. 6.)

Q. Did you hear any of the conversation between Mr. Robertson and Mr. O'Lein?

A. I heard part of it, in an offhand way. I was in the next room and I would catch a word here and there.

Q. Did Mr. Robertson discuss with Mr. O'Lein the various phases of the insurance to be covered by the policy,—if you heard? If you did not, say no.

[fol. 29] A. No, I do not believe I really heard that.

Q. In your presence did Mr. Robertson make any comment as to whether or not the First National Benefit Society was an admitted insurance carrier in the State of California?

A. He did not.

Q. Did he state whether he was or was not a licensed insurance agent, solicitor or broker in the State of California?

A. Not to my knowledge, he did not.

Mr. Hathaway: I believe that is all.

Cross-examination.

By Mr. Weaver:

Q. I just wanted to see the last exhibit a moment. I will show you what purports to be an insurance policy,

marked People's Exhibit No. 6, bearing on the front a purported copy of an application for insurance. As near as you can remember, is this the application that you signed?

A. Well, I did not read the application, but it looks like it would be the application. I know I signed an application.

Q. It gives the name of your husband?

A. Yes.

Q. And your occupation as housewife?

A. Yes.

Q. And that you have not suffered any acute or chronic disease, and you answered that "No"?

A. Yes.

Q. And that you were in good health, and these are apparently the answers that you signed?

A. Yes; they are.

Q. Do you know how the policy was received,—whether [fol. 30] it was received through the mail or delivered?

A. It was through the mail.

Mr. Weaver: I believe that is all.

Mr. Hathaway: Just a minute. I believe that is all from this witness.

The Witness: Thank you.

(Witness excused.)

Mr. Hathaway: Mr. O'Lein, would you return to the stand for just a moment, please?

A. J. O'Lein, recalled as a witness on behalf of the People, having been previously duly sworn, testified as follows:

Direct examination.

By Mr. Hathaway:

Q. Mr. O'Lein, you have been sworn in this matter a few moments ago. I would like to go back for just a moment to the first time that you saw Mr. Robertson. I believe you stated that was on or about the 28th day of August, 1944, and you stated that he came to the house there, and, if I am correct—and, if I am wrong, you correct me—introduced himself to you. Now, I am not sure as to certain questions I asked you before and I would like to go over them, sub-

ject to objection. Will you state what happened when he first introduced himself to you, again, in case I have overlooked anything?

A. He told me he came in response to this card, and [fol. 31] showed me the card and asked me if I sent that card, and I said I did. And I asked him to come in, and he came in and sat down and he started in explaining his policy and his deal.

Q. I assume you asked him as to any of the phases——

A. I do not believe——

Q. (Continuing)—or matters to be covered by the policy?

A. Well, I think he read the benefits—told me the benefits of the policy. I do not know if he read them or not. He told me what the benefits of the policy were and what the cost was, and one thing another. In fact, I did not think seriously of it. I thought was all right. He told me I did not need a medical examination, and at my age it was still O. K., I could still get insurance. And I think that is all there was to it. I do not think we talked very long about the policy.

Q. Did he suggest to you that you should purchase the insurance?

A. Oh, yes, yes, naturally.

Q. Did he ask you whether you desired to and would file an application for the purchase of such a policy?

A. He did. And after I had called Mrs. O'Lein,—I mentioned it to her and thought it was all right and that we ought to buy it, and it was all right, and he started writing the application.

Q. And filling in the application; who filled in the document itself,—the application form?

[fol. 32] A. Mr. Robertson did.

Q. He asked you certain questions?

A. He asked me certain questions.

Q. And you answered him and he filled in the answers?

A. Yes, sir.

Q. And thereafter you paid by check, which we have had here before, and he gave you the receipts which you have been shown here?

A. Yes, sir.

Mr. Hathaway: I believe that is all.

The Court: Mr. Weaver?

Cross-examination.

By Mr. Weaver:

Q. From your understanding, when were you to make your next payment?

A. Well, I understood that this was three months and then there would be another payment due.

Q. And that was to be mailed to the home office at Phoenix, was it?

A. I do not remember that. I imagine that was said, but I do not just recall that anything was said about it. But I suppose it was.

Q. What was your idea?

A. I believe he did say that I would receive notices from the home office when my policy was due.

Q. He said you were to receive notices from the home office?

A. Yes, when more premiums were due.

[fol. 33] Mr. Weaver: That is all.

Mr. Hathaway: That is all.

(Witness excused.)

Mr. Hathaway: Mr. Boraker.

Kenneth F. Boraker, called as a witness on behalf of the People, having been first duly sworn, testified as follows:

Direct examination.

By Mr. Hathaway:

Q. Will you state your full name, please?

A. Kenneth F. Boraker.

Q. Where do you live?

A. Los Angeles; 1436 Avenue 47.

Q. And with whom are you employed?

A. By the State of California, the Department of Insurance.

Q. Have you, at my request, investigated the records of the Department of Insurance, or whatever its appropriate name is,—the department of the State of California which

has to do with the admittance or refusal to admittance of insurance companies to practice in the State of California?

A. I have.

Q. Have you, in that connection and in that regard, investigated the present standing—or the standing, I should say, of the First National Benefit Society of Phoenix, Arizona, as of the 28th day of August, 1944, and for a short [fol. 34] period of time or reasonable period of time before and after that date?

A. I have.

Mr. Weaver: Just a minute. I would like to make an objection to it, unless I understand you. Is it the standing of the Society, as to its being admitted in this State?

Mr. Hathaway: Its admission or non-admission in the State. In other words, if it is admitted in the State—or was during that period of time.

Mr. Weaver: We will stipulate it is not admitted, if that will help any. I did not understand the question.

By Mr. Hathaway:

Q. What did you find with reference to its standing, as to admission to do insurance business in the State of California, on or about that date?

A. I found that it did not have a certificate of authority to do business in the State of California on or about that date.

Q. Did you likewise, at my request, investigate to ascertain whether or not O. F. Robertson, F. O. Robertson, or Fred Robertson, the defendant here in court, did or did not have a license to act as insurance agent, solicitor or broker within the State of California?

A. I have.

Q. And what was his standing in that regard?

A. Our records show that he has no license of any kind.

Q. What was his standing on or about the 28th day of [fol. 35] August, 1944?

A. He had no license at that time.

Mr. Hathaway: I believe that is all.

Mr. Weaver: No questions.

Mr. Hathaway: That is all.

The Court: No questions?
Mr. Weaver: No questions.

(Witness excused.)

Mr. Hathaway: The People rest.

Mr. Weaver: The defendant also rests. I would like, however, before the court's decision, to make just a short argument, to present our theory of this case, whenever the court is ready to hear that. Are you ready to hear that?

The Court: I am ready to hear that at this time.

(Arguments of counsel for the respective parties.)

The Court: It is the court's thought on the matter, it is not a matter of the integrity of the insurance company. That is not at issue at all,—the integrity of the company. Mr. Weaver, do you waive time for the pronouncement of judgment?

Mr. Weaver: Your Honor, I am in somewhat of a quandary. We want to appeal it and I am a little bit in a quandary. We only have five days in which to get that statement of appeal from the time that we file the notice of appeal. If judgment is passed now, then I must file notice of appeal immediately, in order to avail Mr. Robertson of [fol. 36] a bond,—leaving only five days to be back here with a statement on appeal.

Mr. Hathaway: If I may suggest, if the court please, we have not quite arrived at the stage of waiving time for the pronouncement of judgment. Your Honor has not found yet whether the defendant is guilty or not guilty of counts 1 and 2, and, of course, you could not pronounce judgment until that finding has been made.

Mr. Weaver: I understood the Judge was just giving a little information to me before making it final.

JUDGMENT

The Court: It is the judgment of the court that the defendant is guilty on both counts, counts 1 and 2, as shown by the evidence.

Mr. Weaver: I wonder if the court could continue that until about Friday?

The Court: Is that agreeable to the People?

Mr. Hathaway: Yes. I realize Mr. Weaver is working at a disadvantage.

The Court: He is rather handicapped for time.

Mr. Hathaway: Of course, your Honor, he has the right to ask for a continuance up to five days for the pronouncement of judgment. We have discussed a potential date and I think that Friday—which is the 29th, if I am not mistaken——

Mr. Weaver: Yes.

Mr. Hathaway: (Continuing)—is agreeable to me, and I believe it is to Mr. Weaver. Would you rather have it in the morning or afternoon?

[fol. 37] Mr. Weaver: The afternoon would be better.

Mr. Hathaway: 2:00 p. m., if it is convenient to the court's calendar.

The Court: 9-29-44, 2:00 p. m., is that correct?

Mr. Weaver: Yes, your Honor.

The Court: That is agreeable to both the People and the defendant?

Mr. Weaver: Yes, your Honor.

Mr. Hathaway: Yes, your Honor.

(Thereupon an adjournment was taken until Friday, September 29, 1944, at the hour of 2:00 o'clock p. m.)

Reporter's Certificate to foregoing transcript omitted in printing.

[fol. 38] JUSTICE'S CERTIFICATE

STATE OF CALIFORNIA,
County of Ventura, ss:

I hereby certify that D. L. Hossack, Official Reporter pro tem, was by me duly sworn to report in shorthand, and did so report, the testimony and proceedings had on the preliminary examination in the above-entitled matter, and I further certify that the annexed and foregoing transcript consisting of 27 pages, numbered from 1 to 27, inclusive, is a full, true and correct transcript of such testimony and proceedings.

Dated at Ventura, California, this 29th day of September, 1944.

(Signed) Glenn D. Corey, Justice of the Peace in and for Ventura Township. (Seal.)

In the Justice's Court of [illegible] Township

County of Ventura, State of California

The People of the State of California
Plaintiff

vs.

[illegible]

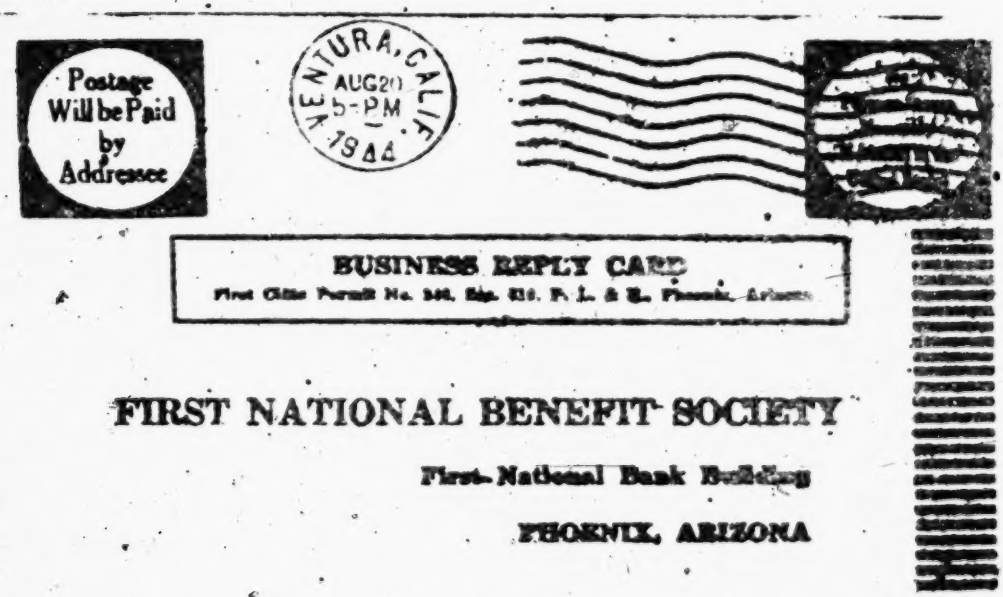
Defendant

People's Exhibit

No. 1, one

Received in Evidence 1-26 1944

[illegible]
Justice of the Peace



NO OBLIGATION—FILL IN—MAIL TODAY

FIRST NATIONAL BENEFIT SOCIETY
First National Bank Building
Phoenix, Arizona

Received in Evidence 1-26 1944

Justice of the Peace

Postage Will be Paid by Addressee

VENTURA, CALIF. AUG 20 5-PM 1942

BUSINESS REPLY CARD

First Class Permit No. 168, Sec. 510, P. L. & R., Phoenix, Arizona

FIRST NATIONAL BENEFIT SOCIETY

First National Bank Building

PHOENIX, ARIZONA

NO OBLIGATION—FILL IN—MAIL TODAY

FIRST NATIONAL BENEFIT SOCIETY
First National Bank Building
Phoenix, Arizona

GOLD Emblem of IDEAL Dependability.

Please send me, without obligation, details of "GOLD SEAL" POLICIES.

Full Name Calvin J. O'Linn

Street Address 1561 Santa Inez

City Ventura State Calif

WE PAY POSTAGE

39

In the Justice's Court of Ventura Township

County of Ventura, State of California

The People of the State of California *Plaintiff*

vs.

E. [illegible]

Defendant

People's Exhibit

No(2) Two

Received in Evidence 7-26 1944

[illegible] Carey

Justice of the Peace

90-342 VENTURA BRANCH 90-342

Bank of America No. [illegible]

NATIONAL TRUST & SAVINGS ASSOCIATION

VENTURA, Calif. [illegible] 29 1944

PAY TO THE ORDER OF Fred [illegible] $ 19 00

[illegible] DOLLARS

Signature [illegible]

[illegible]

PAID

[illegible]

In the Justice's Court of Ventura Township
County of Ventura, State of California

The People of the State of California
vs. Plaintiff

F. Robertson
Defendant

People's Exhibit
No. (31 Thirty-one)

Received in Evidence 7-26 1944

Justice of the Peace

1 S 7.00 Sept-Dec-Nov

RECEIPT **First National Benefit Society** Date 8-29-44

RECEIVED OF Alvin C. Crain
the sum of $6.00 [redacted] Certificate into the FIRST NATIONAL BENEFIT SOCIETY
Deputy F. E. Robertson Address R.A.

FIRST NATIONAL BANK BUILDING, PHOENIX, ARIZONA
Covers All Payments Until First Day of Second Month Following Date of Application
IF CERTIFICATE IS NOT RECEIVED IN TEN DAYS NOTIFY HOME OFFICE
Membership Fee payable in advance (Payable once only) SAFE—CONSERVATIVE—SOUND

41

In the Justice's Court of Ventura Township
County of Ventura, State of California

The People of the State of California *Plaintiff*
vs.
F O Robertson
Defendant

People's Exhibit
No. 41

Received in Evidence 9-26 1944
Clerk A Corey
Justice of the Peace

[redacted] Vol 89 — Sept - Oct - Nov

RECEIPT **First National Benefit Society** Date 8-24-44

RECEIVED OF Venetia J Olson

the sum of [redacted] Certificate into the FIRST NATIONAL BENEFIT SOCIETY

Deputy F O Robertson Address [illegible]

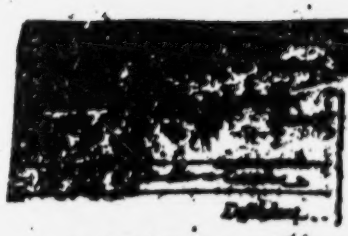
FIRST NATIONAL BANK BUILDING, PHOENIX, ARIZONA

Covers All Payments Until First Day of Second Month Following Date of Application

IF CERTIFICATE IS NOT RECEIVED IN TEN DAYS NOTIFY HOME OFFICE

Membership Fee payable in advance (Payable once only) SAFE—CONSERVATIVE—SOUND

42



People's Exhibit
No. 60

Form 1000

APPLICATION FOR MEMBERSHIP

First National Benefit Society

A NON-PROFIT CO-OPERATIVE CORPORATION

First National Bank Building — Phoenix, Arizona

MEMBERSHIP FEE $4.00, PAYABLE IN ADVANCE, ALL AGES

Policy No. 154476 — Date Issued 9-1-44

APPLICATION TO BE FILLED OUT IN INK ONLY

SEE REVERSE SIDE OF THIS APPLICATION

PREMIUM TABLE

Annually	$36.00
Semi-Annually	18.00
Quarterly	9.00
Monthly	3.00

Full Name? Alvin J. O'Lein — Date? 9-1-44

Address?. 1561 Santa Ynez St. (Street), Ventura (City), Calif. (State)

Date of Birth? 7-15-1885 — Age? 59 — Sex? Male

Height? 6 feet 2 inches — Weight? 200 — Occupation? Real Estate Broker

Beneficiary? Vendla S. O'Lein

Relation of Beneficiary? Wife

Have you consulted a Doctor during the past five years? yes (Yes or No)

Give Details Strept throat in 1942, no ill effects

Do you now or have you ever had any chronic or acute disease? no (Yes or No)

If so, give details

Are you now in strong and vigorous health? yes (Yes or No) — Are your habits temperate? yes (Yes or No)

Do you agree that the Membership applied for shall not take effect until this application is approved by The Society and the Certificate issued? yes (Yes or No)

Have you read the copy, on the reverse side hereof, of the Certificate applied for? yes (Yes or No)

Have you ever been refused life insurance? no (Yes or No)

Do you authorize any Doctor, Hospital or Sanitarium, at any time, to give the Society any information they may have regarding your physical condition? yes (Yes or No)

Do you represent the answers to the above questions and statements contained herein are true and correct and do you agree that any false statement, misrepresentation or concealment of any material fact in this application, shall for a period of two full years from date of Certificate limit the amount payable under the Certificate to the total amount paid in Premiums thereon? yes (Yes or No)

ALVIN J. O'LEIN (WRITE NAME — DO NOT PRINT) — APPLICANT

Individual Contracting Member

If Applicant is a minor have Parent or Guardian sign Application

Mail Certificate to Applicant ☐ — Individual Contracting Member ☐

ADDITIONAL PROVISIONS

This Certificate is free from restrictions as to Aeronautics and Military or Naval service either in time of peace or in time of war.

After two full years from date hereof or any reinstatement hereunder, during the lifetime of the Member, this Certificate shall become incontestable except for the non-payment of Premiums or Assessments within the time specified herein or in the event of suicide as herein provided.

The Member shall not be liable for any debts of the Corporation or for any other obligation save and except the Dues required herein and then only so long as the Certificate remains in force and effect.

Should this Certificate lapse for non-payment of any Premium or Assessment it may be reinstated within [illegible] days from date of lapse or after notice of lapse, whichever is longer, upon written Application to the Corporation and to the Corporation's satisfaction of insurability satisfactory to the Society and the payment of all arrearages. As a result of such reinstatement the benefits provided by this Certificate shall be reduced and the life units accrued shall remain in effect as if no lapse occurred.

Any valid Claim against the Corporation shall be paid within Sixty (60) days from the date of filing at the Home Office of the Corporation, acceptable proof of loss together with satisfactory evidence of the interest of the claimant.

SUICIDE OR SELF-DESTRUCTION, WHETHER SANE OR INSANE IS NOT A RISK ASSUMED UNDER THIS CERTIFICATE EXCEPT FOR THE RETURN OF THE PREMIUMS PAID HEREON.

This Certificate shall be absolutely free from all conditions as to residence, travel, occupation, place or manner of death. False statement, misrepresentation or concealment of any material fact in the Member's application for this Certificate shall, for a period of two full years from the date hereof or from the date of any reinstatement hereof, limit the amount payable to the sum paid on Premiums by the Member on this Certificate and no more.

"GOLD SEAL" Single Life Certificate Provides for—Accumulated Increase—Death Benefits—Dividends to Living Member

CASH DIVIDENDS PAYABLE TO THE LIVING MEMBER—DEATH BENEFITS PAYABLE TO BENEFICIARY OF DECEASED MEMBER

World-Wide Coverage — Covers Death From Any Cause — Benefits Are Non-Cancellable

Number 184478

See Schedule for Ages

Age 59

First National Benefit Society

A Non-Profit Co-Operative Corporation

HOME OFFICE - - - PHOENIX, ARIZONA

PREMIUM TABLE	
Annually - - - - -	$60.00
Semi-Annually - - -	15.00
Quarterly - - - - -	7.50
Monthly - - - - - -	2.50

Any premium deposit as shown opposite may be made on any premium deposit due date.

DOES HEREBY ADMIT AS A MEMBER

** ALVIN J. O'LEIN **

Whose Beneficiary Is ** VENILA S. O'LEIN, WIFE **

AND WILL PAY AS FOLLOWS:

SCHEDULE OF BENEFITS

ENTRANCE AGE DETERMINES AMOUNT PAYABLE.

Age at Issue	Amount of Benefit	Age at Issue	Amount of Benefit	Age at Issue	Amount of Benefit	Age at Issue	Amount of Benefit
10 to 15	$1875.00	29	$1410.00	43	$ 915.00	57	$ 495.00
16	$1845.00	30	$1366.00	44	$ 885.00	58	$ 480.00
17	$1800.00	31	$1335.00	45	$ 855.00	59	$ 465.00
18	$1770.00	32	$1290.00	46	$ 825.00	60	$ 435.00
19	$1740.00	33	$1260.00	47	$ 780.00	61	$ 405.00
20	$1710.00	34	$1230.00	48	$ 750.00	62	$ 375.00
21	$1680.00	35	$1200.00	49	$ 720.00	63	$ 345.00
22	$1650.00	36	$1155.00	50	$ 690.00	64	$ 315.00
23	$1620.00	37	$1125.00	51	$ 660.00	65	$ 300.00
24	$1575.00	38	$1080.00	52	$ 630.00	66	$ 285.00
25	$1545.00	39	$1050.00	53	$ 600.00	67	$ 270.00
26	$1500.00	40	$1020.00	54	$ 585.00	68	$ 255.00
27	$1470.00	41	$ 975.00	55	$ 555.00	69	$ 240.00
28	$1440.00	42	$ 945.00	56	$ 525.00	70	$ 225.00

to the Beneficiary herein named, upon receipt by the Corporation at its Home Office of due proof that the Member herein named died while this Certificate was in full force and effect, subject, however, to all the terms and conditions herein contained.

THE MAXIMUM BENEFIT PAYABLE SHOWN OPPOSITE AGE AT ISSUE IN THE ABOVE SCHEDULE SHALL BE DETERMINED BY THE ENTRANCE AGE OF THE MEMBER, AND SHALL INCREASE FIVE (5) PER CENT PER ANNUM FOR EACH YEAR THIS CERTIFICATE REMAINS IN FORCE AND EFFECT FOR A PERIOD NOT OVER TEN (10) YEARS FROM THE DATE HEREOF, BUT IN NO EVENT SHALL THE BENEFITS PAYABLE HEREUNDER BE IN EXCESS OF THE SUM EQUAL TO ONE AND ONE-HALF THE AMOUNT PROVIDED AT AGE OF ENTRANCE OF THE MEMBER ACCORDING TO THE AMOUNT SHOWN OPPOSITE THE AGE AT ENTRY IN THE ABOVE SCHEDULE. IF THE DEATH OF THE MEMBER OCCURS WITHIN SIX MONTHS AFTER DATE OF THIS CERTIFICATE, THE AMOUNT PAYABLE HEREUNDER SHALL BE ONE THIRD OF THE AMOUNT SHOWN OPPOSITE THE AGE AT ENTRY OF THE MEMBER. IF THE DEATH OF THE MEMBER OCCURS MORE THAN SIX MONTHS BUT LESS THAN TWELVE MONTHS FROM THE DATE HEREOF, THE AMOUNT PAYABLE HEREUNDER SHALL BE TWO THIRDS OF THE AMOUNT SHOWN OPPOSITE THE AGE AT ENTRY OF THE MEMBER.

This Certificate is issued in consideration of the Signed Application of the Member, approved at the Home Office of the Corporation and hereby made a part of this Contract, and the payment of the Membership fee in the sum of Six ($6.00) Dollars, receipt of which is hereby acknowledged, and the future payment of all amounts required to be paid by conditions of this Certificate on or before the date due to the Home Office of the Corporation, during the continuance of this Contract.

The Member is entitled to a Grace period of fifteen (15) days following the due date of any Premium or Assessment during which time this Certificate shall not be forfeited.

AND WILL PAY AS FOLLOWS:

SCHEDULE OF BENEFITS

ENTRANCE AGE DETERMINES AMOUNT PAYABLE

Age at Issue	Amount of Benefit	Age at Issue	Amount of Benefit	Age at Issue	Amount of Benefit	Age at Issue	Amount of Benefit
10 to 15	$1875.00	29	$1410.00	43	$ 915.00	57	$ 495.00
16	$1845.00	30	$1365.00	44	$ 885.00	58	$ 480.00
17	$1800.00	31	$1335.00	45	$ 855.00	59	$ 465.00
18	$1770.00	32	$1290.00	46	$ 825.00	60	$ 435.00
19	$1740.00	33	$1260.00	47	$ 780.00	61	$ 405.00
20	$1710.00	34	$1230.00	48	$ 750.00	62	$ 375.00
21	$1680.00	35	$1200.00	49	$ 720.00	63	$ 345.00
22	$1650.00	36	$1155.00	50	$ 690.00	64	$ 315.00
23	$1620.00	37	$1125.00	51	$ 660.00	65	$ 300.00
24	$1575.00	38	$1080.00	52	$ 630.00	66	$ 285.00
25	$1545.00	39	$1050.00	53	$ 600.00	67	$ 270.00
26	$1500.00	40	$1020.00	54	$ 585.00	68	$ 255.00
27	$1470.00	41	$ 975.00	55	$ 555.00	69	$ 240.00
28	$1440.00	42	$ 945.00	56	$ 525.00	70	$ 225.00

to the Beneficiary herein named, upon receipt by the Corporation at its Home Office of due proof that the Member herein named died while this Certificate was in full force and effect, subject, however, to all the terms and conditions herein contained.

THE MAXIMUM BENEFIT PAYABLE SHOWN OPPOSITE AGE AT ISSUE IN THE ABOVE SCHEDULE SHALL BE DETERMINED BY THE ENTRANCE AGE OF THE MEMBER, AND SHALL INCREASE FIVE (5%) PER CENT PER ANNUM FOR EACH YEAR THIS CERTIFICATE REMAINS IN FORCE AND EFFECT, FOR A PERIOD NOT OVER TEN (10) YEARS FROM THE DATE HEREOF, BUT IN NO EVENT SHALL THE BENEFITS PAYABLE HEREUNDER BE IN EXCESS OF THE SUM EQUAL TO ONE AND ONE-HALF THE AMOUNT PROVIDED AT AGE OF ENTRANCE OF THE MEMBER ACCORDING TO THE AMOUNT SHOWN OPPOSITE THE AGE AT ENTRY IN THE ABOVE SCHEDULE. IF THE DEATH OF THE MEMBER OCCURS WITHIN SIX MONTHS AFTER DATE OF THIS CERTIFICATE, THE AMOUNT PAYABLE HEREUNDER SHALL BE ONE THIRD OF THE AMOUNT SHOWN OPPOSITE THE AGE AT ENTRY OF THE MEMBER. IF THE DEATH OF THE MEMBER OCCURS MORE THAN SIX MONTHS BUT LESS THAN TWELVE MONTHS FROM THE DATE HEREOF, THE AMOUNT PAYABLE HEREUNDER SHALL BE TWO THIRDS OF THE AMOUNT SHOWN OPPOSITE THE AGE AT ENTRY OF THE MEMBER.

This Certificate is issued in consideration of the Signed Application of the Member, approved at the Home Office of the Corporation and hereby made a part of this Contract and the payment of the Membership fee in the sum of Six ($6.00) Dollars, receipt of which is hereby acknowledged, and the future payment of all amounts required to be paid by conditions of this Certificate on or before the date due to the Home Office of the Corporation, during the continuance of this Contract.

The Member is entitled to a Grace Period of fifteen (15) days following the due date of any Premium or Assessment during which time this Certificate shall not be forfeited.

DIVIDENDS. The Board of Directors may, at the close of any calendar year, if in their opinion the Mortuary Fund so justifies, make a refund to the Holder of this Certificate but in no event is such sum to exceed Fifty (50) per cent of the amount the Member has contributed to the Mortuary Fund during such year.

The conditions and provisions printed or written by the Society on the reverse side hereof, together with the Amendments added hereto, are a part of this Contract as fully as if recited over the signatures hereto affixed or imprinted hereon.

IN WITNESS WHEREOF, the First National Benefit Society has caused this Certificate to be signed by its President and its Secretary, and its Corporate Seal affixed and is effective this 1st day of SEPTEMBER 1944

M. C. Reese
President

(ADVANCE PREMIUM PAID)
NEXT ~~PREM~~ Payment Due DECEMBER 1, 1944
PAY ALL FUTURE PAYMENTS TO HOME OFFICE ONLY

REGISTER OF CHANGE OF BENEFICIARY

NOTE: NO CHANGE OF BENEFICIARY SHALL TAKE EFFECT UNLESS ENDORSED ON THIS CERTIFICATE BY THE CORPORATION AT ITS HOME OFFICE

DATE ENDORSED	BENEFICIARY	ENDORSED BY

First National Benefit Society

An Arizona Corporation

Certificate No. 154478

ISSUED TO

** ALVIN J. OYLER **

Dated SEPTEMBER 1, 1944

AMOUNT
See Schedule of Benefits
Annual Premium $240.00
Semi-Annual Premium . . 120.00
Quarterly Premium . . . 60.00
Monthly Premium 20.00

"GOLD SEAL"
LIFE CERTIFICATE

• • • •

ACCUMULATION
DEATH BENEFITS
DIVIDENDS

ADDITIONAL PROVISIONS — (Continued)

The Member shall have the right to change the Beneficiary without notice to or consent of such or any Beneficiary by giving notice in writing to the Corporation, upon forms furnished by the Corporation. In the event that the Beneficiary nominated by the Member be dead at the time of the death of the Member, payment hereunder shall be made to the administrator or executor of the estate of the Member. If the Beneficiary be a minor or otherwise legally incompetent, payment of Claim shall be made to the legal guardian of such Beneficiary and in case of dispute as to whom any payment hereunder shall be made the Corporation reserves the right to pay to a court of competent jurisdiction for adjudication.

In the event of a Claim under this Certificate, proper and sufficient proof of death of the Member shall be submitted to the Home Office upon forms furnished by the Corporation for that purpose, furnishing to the Corporation any and all data information or proof as may be required. This Certificate shall be deemed to be made and payable at Phoenix, Arizona.

The lawfully required portion of Premiums paid on this Certificate shall be set aside into the Mortuary Fund. Premiums necessary to maintain this Certificate in force are not fixed amounts and in event of Premium inadequacy may be adjusted with the written approval of the Corporation Commission, for the purposes of payment of claims and general operating expenses. In the event of any deficiency caused by excessive mortality the Corporation may, with the written consent or at the direction of the Corporation Commission, levy Assessments on Members to be placed in the Mortuary Fund.

If the age of the Member has been mis-stated in his Application, the amount payable hereunder shall be such as the Premium paid would have purchased at his or her correct age. In the event that the age of the Member was more than Seventy (70) years at the date of issuance of this Certificate, the Corporation is liable only to the extent of the return of all Premiums paid hereon.

This Certificate, including any written Amendment hereto and the Application therefor, a copy of which appears hereon, shall constitute the entire Contract between the Member and the Corporation.

This Corporation is organized as a Mutual Benefit Corporation and operates under the Benefit Insurance Corporation Law of 1941 Chapter 81, Arizona Session Law of 1941, and reserves all rights according to law.

County of Ventura, State of California

The People of the State of California, Plaintiff

vs.

[illegible] O'Lein, Defendant

People's Exhibit No. (a) Six

Received in Evidence 9-26 1944

[illegible], Clerk of the Court

Form 1940

APPLICATION FOR MEMBERSHIP

First National Benefit Society

A NON PROFIT CO-OPERATIVE CORPORATION

First National Bank Building Phoenix, Arizona

MEMBERSHIP FEE $6.00, PAYABLE IN ADVANCE, ALL AGES

Policy No 154477 Date Issued 9-1-44

APPLICATION TO BE FILLED OUT IN INK ONLY

SEE REVERSE SIDE OF THIS APPLICATION

PREMIUM TABLE

Annually	$36.00
Semi-Annually	18.00
Quarterly	9.00
Monthly	3.00

Full Name? Vendla S. O'Lein Date? 9-1-44

Address? 1561 Santa Ines St. (Street) Ventura (City) Calif. (State)

Date of Birth? 11-13-1885 Age? 58 Sex? Female

Height? 5 feet 4 inches Weight? 160 Occupation? Housewife

Beneficiary? Alvin J. O'Lein

Relation of Beneficiary? Husband

Have you consulted a Doctor during the past five years? No (Yes or No)

Give Details

Do you now, or have you ever had any chronic or acute disease? No (Yes or No)

If so, give details

Are you now in strong and vigorous health? Yes (Yes or No) Are your habits temperate? Yes (Yes or No)

Do you agree that the Membership applied for shall not take effect until this application is approved by The Society and the Certificate issued? Yes (Yes or No)

Have you read the copy, on the reverse side hereof, of the Certificate applied for? Yes (Yes or No)

Have you ever been refused life insurance? No (Yes or No)

Do you authorize any Doctor, Hospital or Sanitarium, at any time, to give the Society any information they may have regarding your physical condition? Yes (Yes or No)

Do you represent the answers to the above questions and statements contained herein are true and correct and do you agree that any false statement, misrepresentation or concealment of any material fact in this application, shall for a period of two full years from date of Certificate, limit the amount payable under the Certificate to the total amount paid in Premiums thereon? Yes (Yes or No)

BY VENDLA S. O'LEIN (WRITE NAME — DO NOT PRINT) APPLICANT

Individual Contracting Member

If Applicant is a minor, have Parent or Guardian sign Application

Mail Certificate to Applicant ☐ Individual Contracting Member ☐

ADDITIONAL PROVISIONS

This Certificate is free from restrictions as to Aeronautics and Military or Naval service either in time of peace or in time of war.

After two full years from date hereof or any reinstatement hereunder, during the lifetime of the Member, this Certificate shall become incontestable except for the non-payment of Premiums or Assessments within the time specified herein or in the event of suicide as herein provided.

The Member shall not be liable for any debts of the Corporation or for any other obligation save and except the Costs required herein and then only so long as the Certificate remains in force and effect.

Should this Certificate lapse for non-payment of any Premium or Assessment it may be reinstated within one year from date of lapse or after notice of lapse, whichever is longer, upon written Application furnishing to the Corporation evidence of insurability, satisfactory to the Society and the payment of all arrearages. As a result of such reinstatement no benefits provided by this Certificate shall be reduced, and the Benefits accrued shall remain in effect as if no lapse occurred.

Any valid Claim against the Corporation shall be paid within Sixty (60) days from the date of filing at the Home Office of the Corporation, acceptable proof of loss, together with satisfactory evidence of the interest of the Claimant.

SUICIDE OR SELF-DESTRUCTION, WHETHER SANE OR INSANE, IS NOT A RISK ASSUMED UNDER THIS CERTIFICATE EXCEPT FOR THE RETURN OF THE PREMIUMS PAID HEREON.

This Certificate shall be absolutely free from all conditions as to residence, travel, occupation, place or manner of death. False statement, misrepresentation, or concealment of any material fact in the Member's application for this Certificate shall, for a period of two full years from the date hereof or from the date of any reinstatement hereof, limit the amount payable to the sum paid in Premiums by the Member on this Certificate and no more.

"CHILD SEAL" Single Life Certificate Provides for—Accumulation Increase—Death Benefits—Dividends to Living Member

CASH DIVIDENDS PAYABLE TO THE LIVING MEMBER—DEATH BENEFITS PAYABLE TO BENEFICIARY OF DECEASED MEMBER

World-Wide Coverage — Covers Death From Any Cause — Benefits Are Non-Cancellable

Number 184477

See Schedule for Ages

Age 50

PREMIUM TABLE	
Annually	$36.00
Semi-Annually	18.00
Quarterly	9.00
Monthly	3.00

First National Benefit Society

A Non-Profit Co-Operative Corporation

HOME OFFICE - - - PHOENIX, ARIZONA

Any premium deposit as shown opposite may be made on any premium deposit due date.

DOES HEREBY ADMIT AS A MEMBER

** VENILA S. O'LEIN **

Whose Beneficiary Is ** ALVIN J. O'LEIN, HUSBAND **

AND WILL PAY AS FOLLOWS:

:- - - SCHEDULE OF BENEFITS - - -:

ENTRANCE AGE DETERMINES AMOUNT PAYABLE

Age at Issue	Amount of Benefit	Age at Issue	Amount of Benefit	Age at Issue	Amount of Benefit	Age at Issue	Amount of Benefit
10 to 15	$1875.00	30	$1410.00	43	$ 915.00	57	$ 495.00
16	$1845.00	30	$1365.00	44	$ 885.00	58	$ 480.00
17	$1800.00	31	$1335.00	45	$ 855.00	59	$ 465.00
18	$1770.00	32	$1290.00	46	$ 825.00	60	$ 435.00
19	$1740.00	33	$1260.00	47	$ 780.00	61	$ 405.00
20	$1710.00	34	$1230.00	48	$ 750.00	62	$ 375.00
21	$1680.00	35	$1200.00	49	$ 720.00	63	$ 345.00
22	$1650.00	36	$1155.00	50	$ 690.00	64	$ 315.00
23	$1620.00	37	$1125.00	51	$ 660.00	65	$ 300.00
24	$1575.00	38	$1080.00	52	$ 630.00	66	$ 285.00
25	$1545.00	39	$1050.00	53	$ 600.00	67	$ 270.00
26	$1500.00	40	$1020.00	54	$ 585.00	68	$ 255.00
27	$1470.00	41	$ 975.00	55	$ 555.00	69	$ 240.00
28	$1440.00	42	$ 945.00	56	$ 525.00	70	$ 225.00

to the Beneficiary herein named, upon receipt by the Corporation at its Home Office of due proof that the Member herein named, died while this Certificate was in full force and effect, subject, however, to all the terms and conditions herein contained.

THE MAXIMUM BENEFIT PAYABLE SHOWN OPPOSITE AGE AT ISSUE IN THE ABOVE SCHEDULE SHALL BE DETERMINED BY THE ENTRANCE AGE OF THE MEMBER AND SHALL INCREASE FIVE (5%) PER CENT PER ANNUM FOR EACH YEAR THIS CERTIFICATE REMAINS IN FORCE AND EFFECT, FOR A PERIOD NOT OVER TEN (10) YEARS FROM THE DATE HEREOF, BUT IN NO EVENT SHALL THE BENEFITS PAYABLE HEREUNDER BE IN EXCESS OF THE SUM EQUAL TO ONE AND ONE-HALF THE AMOUNT PROVIDED AT AGE OF ENTRANCE OF THE MEMBER, ACCORDING TO THE AMOUNT SHOWN OPPOSITE THE AGE AT ENTRY IN THE ABOVE SCHEDULE. IF THE DEATH OF THE MEMBER OCCURS WITHIN SIX MONTHS AFTER DATE OF THIS CERTIFICATE, THE AMOUNTS PAYABLE HEREUNDER SHALL BE ONE THIRD OF THE AMOUNT SHOWN OPPOSITE THE AGE AT ENTRY OF THE MEMBER. IF THE DEATH OF THE MEMBER OCCURS MORE THAN SIX MONTHS, BUT LESS THAN TWELVE MONTHS FROM THE DATE HEREOF, THE AMOUNT PAYABLE HEREUNDER SHALL BE TWO-THIRDS OF THE AMOUNT SHOWN OPPOSITE THE AGE AT ENTRY OF THE MEMBER.

This Certificate is issued in consideration of the Signed Application of the Member, approved at the Home Office of the Corporation, and hereby made a part of this Contract and the payment of the Membership fee in the sum of Six ($6.00) Dollars, receipt of which is hereby acknowledged, and the future payment of all amounts required to be paid by conditions of this Certificate on or before the date due to the Home Office of the Corporation, during the continuance of this Contract.

The Member is entitled to a Grace period of fifteen (15) days following the due date of any Premium or Assessment, during which time this Certificate shall not be forfeited.

DOES HEREBY ADMIT AS A MEMBER

•• VENILA S. O'LEIN ••

Whose Beneficiary Is •• ALVIN J. O'LEIN, HUSBAND ••

AND WILL PAY AS FOLLOWS:

:- - - SCHEDULE OF BENEFITS - - -:

ENTRANCE AGE DETERMINES AMOUNT PAYABLE

Age at Issue	Amount of Benefit	Age at Issue	Amount of Benefit	Age at Issue	Amount of Benefit	Age at Issue	Amount of Benefit
10 to 15	$1875.00	29	$1410.00	43	$ 915.00	57	$ 495.00
16	$1845.00	30	$1365.00	44	$ 885.00	58	$ 480.00
17	$1800.00	31	$1335.00	45	$ 855.00	59	$ 465.00
18	$1770.00	32	$1290.00	46	$ 825.00	60	$ 435.00
19	$1740.00	33	$1260.00	47	$ 780.00	61	$ 405.00
20	$1710.00	34	$1230.00	48	$ 750.00	62	$ 375.00
21	$1680.00	35	$1200.00	49	$ 720.00	63	$ 345.00
22	$1650.00	36	$1155.00	50	$ 690.00	64	$ 315.00
23	$1620.00	37	$1125.00	51	$ 660.00	65	$ 300.00
24	$1575.00	38	$1080.00	52	$ 630.00	66	$ 285.00
25	$1545.00	39	$1050.00	53	$ 600.00	67	$ 270.00
26	$1500.00	40	$1020.00	54	$ 585.00	68	$ 255.00
27	$1470.00	41	$ 975.00	55	$ 555.00	69	$ 240.00
28	$1440.00	42	$ 945.00	56	$ 525.00	70	$ 225.00

to the Beneficiary herein named, upon receipt by the Corporation at its Home Office of due proof that the Member herein named died while this Certificate was in full force and effect subject however to all the terms and conditions herein contained

THE MAXIMUM BENEFIT PAYABLE SHOWN OPPOSITE AGE AT ISSUE IN THE ABOVE SCHEDULE SHALL BE DETERMINED BY THE ENTRANCE AGE OF THE MEMBER AND SHALL INCREASE FIVE (5) PER CENT PER ANNUM FOR EACH YEAR THIS CERTIFICATE REMAINS IN FORCE AND EFFECT FOR A PERIOD NOT OVER TEN (10) YEARS FROM THE DATE HEREOF BUT IN NO EVENT SHALL THE BENEFITS PAYABLE HEREUNDER BE IN EXCESS OF THE SUM EQUAL TO ONE AND ONE-HALF THE AMOUNT PROVIDED AT AGE OF ENTRANCE OF THE MEMBER ACCORDING TO THE AMOUNT SHOWN OPPOSITE THE AGE AT ENTRY IN THE ABOVE SCHEDULE. IF THE DEATH OF THE MEMBER OCCURS WITHIN SIX MONTHS AFTER DATE OF THIS CERTIFICATE THE AMOUNT PAYABLE HEREUNDER SHALL BE ONE THIRD OF THE AMOUNT SHOWN OPPOSITE THE AGE AT ENTRY OF THE MEMBER. IF THE DEATH OF THE MEMBER OCCURS MORE THAN SIX MONTHS BUT LESS THAN TWELVE MONTHS FROM THE DATE HEREOF THE AMOUNT PAYABLE HEREUNDER SHALL BE TWO-THIRDS OF THE AMOUNT SHOWN OPPOSITE THE AGE AT ENTRY OF THE MEMBER

This Certificate is issued in consideration of the Signed Application of the Member, approved at the Home Office of the Corporation, all of which is hereby made a part of this Contract, and the payment of the Membership Fee in the sum of Six ($6.00) Dollars receipt of which is hereby acknowledged, and the future payment of all amounts required to be paid by conditions of this Certificate on or before the date due, to the Home Office of the Corporation during the continuance of this Contract.

The Member is entitled to a Grace period of fifteen (15) days following the due date of any Premium or Assessment during which time this Certificate shall not be forfeited.

DIVIDENDS. The Board of Directors may at the close of any calendar year, if in their opinion the Mortuary Fund so justifies, make a refund to the Holder of this Certificate but in no event is such sum to exceed Fifty (50) per cent of the amount the Member has contributed to the Mortuary Fund during such year.

The conditions and provisions printed or written by the Society on the reverse side hereof, together with the Amendments added hereto, are a part of this Contract as fully as if recited over the signatures hereto, affixed or unprinted hereon.

IN WITNESS WHEREOF, the First National Benefit Society has caused this Certificate to be signed by its President and its Secretary, and its Corporate Seal affixed and is effective this 1st day of SEPTEMBER 19 44

M. C. Reese
President

[illegible] Payment Due [illegible] 1, 1944

PAY ALL FUTURE PAYMENTS TO HOME OFFICE ONLY

Secretary

THIS FORM APPROVED BY ARIZONA INSURANCE DEPARTMENT

REGISTER OF CHANGE OF BENEFICIARY

NOTE: NO CHANGE OF BENEFICIARY SHALL TAKE EFFECT UNLESS ENDORSED ON THIS CERTIFICATE BY THE CORPORATION AT ITS HOME OFFICE

DATE ENDORSED	BENEFICIARY	ENDORSED BY

Certificate No. 18417

First National Benefit Society

An Arizona Corporation

ISSUED TO

•• TESLA S. O'[illegible] ••

Dated SEPTEMBER 1, 1944

AMOUNT	
See Schedule of Benefits	
Annual Premium	$24.00
Semi-Annual Premium	12.50
Quarterly Premium	6.00
Monthly Premium	2.00

"GOLD SEAL"
LIFE CERTIFICATE

ACCUMULATION
DEATH BENEFITS
DIVIDENDS

ADDITIONAL PROVISIONS — (Continued)

The Member shall have the right to change the Beneficiary without notice to or consent of such or any Beneficiary by [illegible] notice in writing to the [illegible] at its Home Office, endorsed by the Corporation. In the event that the Beneficiary predeceases the Member or shall be dead at the time of the death of the Member, payment hereunder shall be made to the executor or administrator of the estate of the Member. If the Beneficiary is a minor or otherwise legally incompetent, payment of Claim shall be made to the [illegible] thereof. Payment to such Beneficiary or to such [illegible] the Corporation from any liability on account of such Benefit.

[illegible] Benefit hereunder shall be made the Corporation reserves the right to pay [illegible] Benefit [illegible] Plan to pay [illegible]

In the event of a [illegible] proof of death of the Member shall be submitted to the Home Office of the Corporation [illegible] furnishing to the Corporation any and all information [illegible] and [illegible] at Phoenix, Arizona.

The liability [illegible] Certificate [illegible] set aside into the Mortality Fund. Premiums [illegible] with [illegible] Fund [illegible] the Corporation [illegible] Premium insufficiency may be adjusted, with the written approval of the [illegible] the purpose [illegible] statement of claims and general operating expenses, to the extent [illegible] with the written consent of or at the direction of the Corporation [illegible] Fund [illegible] the Mortality Fund.

If the death of the Member occurs [illegible] the Application for this Certificate, the amount payable hereunder shall be such as the Premium [illegible] to the extent that the age of the Member was more than [illegible] the extent of the return of all Premiums paid hereon.

This Certificate [illegible] the Application [illegible] and the Application thereto, a copy of which appears hereon, shall [illegible] the entire [illegible] the Member and the Corporation.

[illegible] Benefit Corporation and operates under the Benefit Insurance Corporation Law of the State of Arizona. [illegible] and reserves all rights according to law.

[fol. 50] [File endorsement omitted]

IN THE JUSTICE'S COURT OF VENTURA TOWNSHIP

[Title omitted]

WARRANT OF ARREST (MISDEMEANOR)

The People of the State of California, to any Sheriff, Constable, Marshal or Policeman of said County of Ventura:

Complaint, upon oath, having been this day laid before me Glenn D. Corey a Justice of the Peace of said Township, by A. J. O'Lein that the offense of Violation of Section 703 (a) and Section 1642 of the Insurance Code has been committed, and accusing F. O. Robertson thereof,

You Are Therefore Commanded forthwith to arrest the above named F. O. Robertson and to bring him before me forthwith, at my office in said Township.

Witness my hand, at my office in said Township, this 1st day of September, 1944.

(Signed) Glenn D. Corey, Justice of the Peace of said Township.

[fol. 51] STATE OF CALIFORNIA,
County of Ventura, ss:

I Certify that I received the above warrant on the — day of ——, 194— and served the same by arresting the above named —— —— thereon at —— on the — day of —, 194—, and bringing him into Court, this — day of —, 1944.

(Signed) L. Howard Durley, Sheriff, Ventura Township, County of Ventura, by (Signed) Ralph Gragg, Deputy Sheriff.

[fol. 52] Western Union

Money Order Message

Ventura, Cal. Sept. 2, 1944

No. 856.

To Glen Corey Justice of the Peace

The Money Order paid you herewith is from Ethel Weber at Beverly Hills Calif. and included the following messages:

For Mr. F. O. Robertson.

Filed Sep. 2, 1944. Glenn D. Corey, Justice of the Peace.

[fol. 53] [File endorsement omitted]

IN THE JUSTICE'S COURT OF VENTURA TOWNSHIP

[Title omitted]

ORDER FOR RELEASE OF PRISONER

To the Sheriff of Ventura County:

This is to command you to release from custody O. F. Robertson, the above named defendant in the above entitled cause, for the following reasons, viz:

Cash Bail $500.00 posted for appearance 9-7-44 at 2 P. M.

Signed Glenn D. Corey, Justice of the Peace of and for Ventura Township.

Dated 9-2-44.

[fol. 54] Robert R. Weaver, Attorney at Law,
404 First National Bank Bldg.,
Central at Washington,
Telephone 3-1753

Phoenix, Arizona,
September 15, 1944.

Offiee of the Justice of the Peace, Ventura, California.

DEAR SIR:

Re: People vs. Robertson

When we were at Ventura a few days ago the above matter was set for trial on September 26th at 10 O'clock with the understanding that if a Jury were waived by September 19th, the time of the trial would be at 2 o'clock on the same date.

Since the matter involved is more a matter of law than of fact we waive the jury and ask the Court to set the case at 2 o'clock as we had tentatively agreed upon.

Would you kindly inform me whether or not this can be done so that the defendant will not be in danger of forfeiting his bond by waiting until 2 o'clock for appearance.

Yours very truly, (Signed) Robert R. Weaver.

RRW-S.

[fol. 55] IN THE JUSTICE'S COURT OF VENTURA TOWNSHIP, COUNTY OF VENTURA, STATE OF CALIFORNIA, GLENN D. COREY, JUSTICE

Criminal

THE PEOPLE OF THE STATE OF CALIFORNIA, Plaintiff,

vs.

F. O. ROBERTSON, Defendant

Charge: Section 703a, Insurance Code (2 counts).

Complaint of A. J. O'Lein; Julien G. Hathaway, Attorney for Plaintiff; Robert R. Weaver, Attorney for Defendant.

Date 1944	Proceedings

September 1 Complaint and copy filed. Warrant of Arrest issued and handed to the Sheriff's office for service. Bail set at $500.00 cash.

September 2 Cash bail in the sum of $500.00, Western Union Money Order, deposited. Defendant released. Western Union Money Order Message, filed. Message states money deposited with Western Union by Ethel Weber, Beverly Hills, California.

Later: Defendant is in Court without counsel, in the custody of Deputy Sheriff, Ralph Gragg, and says his true name is O. F. Robertson. District Attorney, M. Arthur Waite, is in Court representing the People. The said defendant is duly arraigned, the Complaint is read to him and [fol. 56] he is informed of all his legal rights. (Rights explained by the Magistrate.) Defendant takes time in which to plead and time to plead is by the Court set for September 7, 1944, at 2:00 P. M. Defendant is released on cash bail bond heretofore deposited herein.

September 7 Defendant is in Court with counsel, Robert R. Weaver, and says his true name is F. O. Robertson and the Complaint is amended to show his true name. Deputy District Attorney, Julien G. Hathaway, is in Court representing the People. Through his attorney, defendant waives time to plead and enters a plea of "not guilty", and asks for jury trial. Trial by Jury, is by the Court set for September 26, 1944, at 10:00 A. M. Defendant is released on bond heretofore deposited herein.

September 18 On stipulation of counsel herein trial by Jury is hereby set aside and the case to be tried by Court on September 26, 1944, at 2:00 P. M.

September 26 Defendant is in Court with counsel, Robert R. Weaver, Deputy District Attorney, Julien G. Hathaway, is in Court representing the People. D. L. Hossack, is in Court duly appointed reporter. A. J. O'Lein, Mrs. Vendla O'Lein, each having been first duly sworn, are examined [fol. 57] on the part of the People and are cross-examined by Mr. Weaver, in defendant's behalf. A certain postcard signed by A. J. O'Lein, is offered and admitted in evidence as People's exhibit #1; and a certain check, maker A. J. O'Lein to Fred Robertson, is offered and admitted in evidence as People's exhibit #2; and a certain receipt issued to Alvin J. O'Lein, is offered and received in evidence as People's exhibit #3; and a certain receipt issued to Vendla O'Lein, is offered and received in evidence as People's exhibit #4; and a certain application for membership of Alvin J. O'Lein, is offered and received in evidence as People's exhibit #5; and a certain application for membership of Vendla O'Lein, is offered and received in evidence as People's exhibit #6. A. J. O'Lein, is recalled and examined on the part of the People and is again cross-examined by Mr. Weaver for defendant. Kenneth F. Boraker, having been first duly sworn, is examined on the part of the People. Mr. Weaver made no cross-examination of this witness. The People rest. The said defendant having been first fully advised by the Court, declined to testify in his own behalf. The Court finds defendant guilty on both [fol. 58] counts and time to pronounce judgment is by the Court set for September 29, 1944, at 2:00 P. M.

September 29 Defendant is in Court with counsel, Robert R. Weaver. Deputy District Attorney, Julien G. Hathaway, is in Court representing the People. All parties are ready for pronouncement of judgment.

JUDGMENT

WHEREFORE, it is by the Court ordered and adjudged that the said defendant, F. O. Robertson, shall pay a fine of $200.00, being $100.00 on each count as stated in the Complaint herein; it is further ordered that the cash bail be reduced to $200.00 and $300.00 ordered by the Court to be returned to Ethel Weber, 130 S. Westgate Avenue, (Brent-

wood) Los Angeles 24, California. Done in Open Court this 29th day of September, 1944.

(Signed) Glenn D. Corey, Justice of the Peace.

Defendant files notice of Appeal, and files Statement on Appeal.

Transcript of Docket issued.

The following papers are filed with the Clerk of the Superior Court:

Complaint.
Warrant of Arrest.
Western Union Money Order Message.
Copy of Order for Release of Prisoner.
[fol. 59] Letter from Robert R. Weaver.
Notice of Appeal.
Transcript of Docket.
Certificate.
Statement on Appeal.

together with exhibits as above listed.

[fols. 60-61] Certificate

I hereby certify that the above and foregoing to be a true, full and correct transcript of the Docket as it appears on my records.

Dated this 29th day of September, 1944.

(Signed) Glenn D. Corey, Justice of the Peace, Ventura Township, County of Ventura, State of California.

[fol. 62] In the Superior Court of Ventura County

No. 27739

The People, Etc.,

vs.

F. O. Robertson

Minute Entry of Hearing—Nov. 4, 1944

The above entitled action comes regularly on at this time for hearing of the appeal of the defendant from the judgment of conviction rendered in the Justice's Court of Ventura Township, County of Ventura, State of California.

The Deputy District Attorney, Julien G. Hathaway, and the defendant with his counsel, R. R. Weaver, are present in Court.

Deputy District Attorney, Julien G. Hathaway, makes his opening statement to the Court.

It is stipulated by and between counsel for appellant and respondent that the Reporter's Transcript of Proceedings and testimony had and taken in the Justice's Court of Ventura Judicial Township on Tuesday, September 26, 1944, at 2:00 o'clock P. M., be, and hereby is received in evidence on this appeal and that the testimony therein con-
[fol. 63] tained be received in this Court as testimony and deemed to have been taken in this Court for all purposes in this cause. It is so ordered by the Court.

It is further stipulated that said cause shall stand submitted upon the filing of briefs by respective counsel; that appellant shall have 15 days within which to file opening briefs, the proponant to have 15 days within which to file answering briefs, and the appellant to have 10 days within which to file closing briefs.

Attest: a true copy of the minutes.

L. E. Hallowell, County Clerk, by (Signed) R. O. Weigle, Deputy Clerk.

[fol. 64] IN THE SUPERIOR COURT OF VENTURA COUNTY

No. 27739

THE PEOPLE, ETC.,

vs.

F. O. ROBERTSON

MINUTE ENTRY OF JUDGMENT—May 29, 1945

The appeal of the defendant, F. O. Robertson, from the Judgment of Conviction rendered in the Justice's Court of Ventura Township, County of Ventura, State of California, in the above entitled action having been submitted, pursuant to stipulation of Deputy District Attorney Julien G. Hathaway, appearing for the People of the State of California, and R. R. Weaver, counsel for the defendant, on the Reporters Transcript of Proceedings and testimony

had and taken in the Justice's Court of Ventura Township, County of Ventura, State of California, on Tuesday, the 26th day of Septembere, 1944, at 2:00 o'clock P. M. and upon briefs filed by respective counsel, and the Court having duly considered the same and being fully advised, now

Orders that the Judgment of Conviction rendered herein by the Justice's Court of Ventura Township, County of Ventura, State of California, be, and the same is hereby affirmed.

[fol. 65] Attest: a true copy of the minutes.

L. E. Hallowell, County Clerk, by (Signed) R. O. Weigle, Deputy Clerk. (Seal.)

[File endorsement omitted.]

[fol. 66] [File endorsement omitted.]

IN THE SUPERIOR COURT OF VENTURA COUNTY

No. 27739

THE PEOPLE OF THE STATE OF CALIFORNIA, Plaintiff and Respondent,

vs.

F. O. ROBERTSON, Defendant and Appellant,

MEMORANDUM OF OPINION—Filed April 21, 1945

In the Justice's Court of Ventura Township the defendant was found guilty of two counts of violation of the Insurance Code of California: (1) Violation of Section 703a of the Insurance Code, and (2) violation of Section 1642 of the same Code. The case comes to the Superior Court on appeal from the judgment rendered pursuant to such conviction.

There is no dispute as to the facts involved, which may be stated from appellant's brief as follows:

> "In the case at Bar the record shows: *One*, that the First National Benefit Society had sent through the United States mails certain advertising material containing inquiry cards, to prospective purchasers. *Two*, [fol. 67] that one A. J. O'Lein forwarded to the Society

at Phoenix, through the same mail the inquiry card in evidence. *Three,* that the Society forwarded the same inquiry card to F. O. Robertson through the mail. *Four,* that an application was signed by the said O'Lein and his wife and forwarded direct to the Society through the mail. *Five,* that the application was accepted at Phoenix, Arizona, and policy mailed direct to the said O'Lein at Ventura, California, with instructions to make all payments direct to the home office at Phoenix. (Rep. Tr. Page 6-15.)"

Thus the defendant, in California acted as agent for a non-admitted insurer, without a license, and is clearly guilty of the crimes charged.

The whole ground of appeal is that the decision by the United States Supreme Court in the recent case of United States v. South-Eastern Underwriters Asso., 64 S. Ct. 1162, compels a reversal of the judgment for the reason that the State of California has no power to regulate any phase of the insurance business, if that business be interstate.

I have very carefully read the decision in question. It holds that the business of insurance is commerce, and that a Federal indictment for conspiracy to violate the Sherman Anti-Trust Act is good against demurrer. There is nothing in the case which overrules prior decisions of the Supreme Court, holding state regulation of insurance to be valid.

As Mr. Justice Black points out: "Insurance touches the home, the family, and the occupation or business of almost every person in the United States;" and on page 1089 of the reported decision it is stated:

[fol. 68] "In all cases in which the Court has relied upon the proposition that 'the business of insurance is not commerce,' its attention was focused on the validity of state statutes—the extent to which the Commerce Clause automatically deprived states of the power to regulate the insurance business. Since Congress had at no time attempted to control the insurance business, invalidation of the state statutes would practically have been equivalent to granting insurance companies engaged in interstate activities a blanket license to operate without legal restraint. As early as 1866 the insurance trade, though still in its infancy, was subject to widespread abuses. To meet the imperative

need for correction of these abuses the various state legislatures, including that of Virginia, passed regulatory legislation. Paul v. Virginia upheld one of Virginia's statutes. To uphold insurance laws of other states, including tax laws, Paul v. Virginia's generalization and reasoning have been consistently adhered to."

And on page 1091 the following language conclusively demonstrates that it was not the intention of the Supreme Court to deny to the several states the right to regulate insurance:

> "It is settled that, for Constitutional purposes, certain activities of a business may be intrastate and therefore subject to state control, while other activities of the same business may be interstate and therefore subject to federal regulation. And there is a wide range of business and other activities which, though subject to federal regulation, are so intimately related to local welfare that, in the absence of Congressional action, they may be regulated or taxed by the states. In marking out these activities the primary test applied by the Court is not the mechanical one of whether the particular activity affected by the state regulation is part of interstate commerce, but rather whether, in each case, the competing demands of the state and national interests involved can be accommodated. And the fact that particular phases of an interstate business or activity have long been regulated or taxed by states [fol. 69] has been recognized as a strong reason why, in the continued absence of conflicting Congressional action, the state regulatory and tax laws should be declared valid."

Therefore all that this important leading case holds is that the Federal law applies to interstate insurance, and that state law likewise applies to interstate insurance until the Federal government may exercise its power to legislate in that particular field.

The judgment is affirmed.

Dated this 20th day of April, 1945.

(Signed) Louis C. Drapeau, Judge of the Superior Court.

[fol. 70] IN THE SUPERIOR COURT OF VENTURA COUNTY

27739

THE PEOPLE, etc.

vs.

F. O. ROBERTSON

JUDGMENT—May 29, 1945

The appeal of the defendant, F. O. Robertson, from the Judgment of Conviction rendered in the Justice's Court of Ventura Township, County of Ventura, State of California, in the above entitled action having been submitted, pursuant to stipulation of Deputy District Attorney Julien G. Hathaway, appearing for the People of the State of California, and R. R. Weaver, counsel for the defendant, on the Reporter's Transcript of Proceedings and testimony had and taken in the Justice's Court of Ventura Township, County of Ventura, State of California, on Tuesday, the 26th day of September, 1944, at 2:00 o'clock P. M., and upon briefs filed by respective counsel, and the Court having duly considered the same and being fully advised, now

Orders that the Judgment of Conviction rendered herein by the Justice's Court of Ventura Township, County of Ventura, State of California, be, and the same is hereby affirmed.

Attest: a true copy of the minutes.

L. E. Hallowell, County Clerk, (Signed) by R. O. Weigle, Deputy Clerk. (Seal.)

[File endorsement omitted.]

[fol. 71] [File endorsement omitted]

IN THE SUPERIOR COURT OF VENTURA COUNTY

[Title omitted]

PETITION FOR ORDER ALLOWING APPEAL—Filed May 31, 1945

To the Honorable Louis C. Drapeau, Judge of the Superior Court of the State of California in and for the County of Ventura; your petitioner respectfully shows:

I

Petitioner is the appellant in the above entitled cause.

II

That the above-named respondent, the People of the State of California, brought a misdemeanor action against the appellant for violation of Section 703 (a) and Section 1642 of the Insurance Code of the State of California; that the said action was tried in the justice court of Ventura Township, County of Ventura, State of California, on the 26th day of September, 1944; that the said appellant was found guilty of the said charge.

III

An appeal from the said judgment was taken to the above entitled court, the Superior Court of the State of California, in and for the County of Ventura, and that the said judg-[fol. 72] ment of the said justice court was affirmed by the said Superior Court on the 29th day of May, 1945.

IV

In the said cause there is drawn in question the validity of a statute of the State of California on the ground of its being repugnant to the Constitution and laws of the United States, and the decision is in favor of its validity in that the said Sections 703 (a) of the Insurance Code of the State of California as applied to the acts of the appellant herein *are* in violation of the Commerce Clause of the Constitution of the United States and to the Fourteenth Amendment thereto.

Wherefore, petitioner prays for the allowance of an appeal from said Superior Court of the State of California,

to the Supreme Court of the United States, in order that the decision of the said Superior Court of the State of California may be examined or reversed, and also prays that a transcript of the record, proceedings and papers in this case, duly authenticated by the clerk of the said Superior Court of the State of California, may be sent to the Supreme Court of the United States, as provided by law; and petitioner prays that the court set the amount of any cost bond or deposit for costs herein.

Petitioner further prays that pending the disposition of this case by the said Supreme Court of the United States, he may be admitted to bail upon giving bond according to [fol. 73] law in such sum as the Court may deem proper, the said bond to be approved as this Court may direct.

Dated this 23rd day of May, 1945.

(Signed) Robert R. Weaver, Attorney for Petitioner.

Service of the foregoing Petition for Order Allowing Appeal and the receipt of a copy thereof are hereby acknowledged this 29th day of May, 1945.

M. Arthur Waite, (Signed) by Donald D. Roff, Attorneys for Plaintiff and Respondent.

[fol. 74] [File endorsement omitted]

IN THE SUPERIOR COURT OF VENTURA COUNTY

[Title omitted]

ASSIGNMENT OF ERRORS ON APPEAL—Filed May 31, 1945

Comes now F. O. Robertson by Robert R. Weaver, his attorney, having filed with the above entitled Court his Petition for Appeal and the Court having granted the same and having filed a written Order allowing said Appeal, now makes and files herewith this, his Assignment of Errors, and says that in the trial of the said case in the record, proceedings, rulings, and judgment aforesaid manifest error has intervened to his prejudice, namely:

I

The Judgment Is Contrary to The Law and to the Constitution of the United States of America.

a. The said Judgment has found the said F. O. Robertson guilty of an offense of failing to obtain a li-

cense to assist in a transaction in Interstate Commerce.

b. The law under which the said judgment was rendered is contrary to the Constitution of the United States, in that it imposes an undue burden on Interstate [fol. 75] Commerce.

c. The law under which the said Judgment was rendered is contrary to the law and the Constitution of the United States, in that it constitutes a prohibition against the Defendant engaging in Interstate transactions.

d. The said Judgment is contrary to the law and evidence in that the defendant has been adjudged guilty of an offense for assisting a nonadmitted insurer to complete an interstate transaction insuring the life of one who could not obtain life insurance from an admitted insurer and which even surplus line brokers could not write because the premium charge was less than that of an admitted insurer.

II

The Judgment Is Contrary to the Evidence in Each Particular in That it Is Contrary to the Law and in Conflict *to* the Constitution of the United States of America.

a. The Judgment of the said Court is contrary to the evidence in that the said evidence shows that the laws of the State of California under which Appellant was prosecuted are in conflict with Art. 1, Section 8, para. 3, known as the commerce Clause of the Constitution of the United States, and the Fourteenth Amendment to the Constitution.

[fols. 76-101] III

The Said Superior Court Erred in Holding That the Said Sections of the California Insurance Code (703a and 1642), As Applied to the Acts of the Appellant Complained of Herein, Were Not in Conflict With the Laws or Constitution of the United States and in Holding in Favor of Their Validity.

Wherefore, Appellant prays that the said judgment of the Superior Court of the State of California in and for

the County of Ventura be reversed and that the said Court be ordered to enter judgment in favor of the Appellant.

Dated this 23 day of May, 1945.

(Signed) Robert R. Weaver, Attorney for Defendant and Appellant.

Service of the foregoing Assignment of Errors on Appeal and the receipt of a copy thereof are hereby acknowledged this 29th day of May, 1945.

M. Arthur Waite, (Signed) by Donald D. Roff, Attorneys for Plaintiff and Respondent.

[fol. 102] [File endorsement omitted]

IN THE SUPERIOR COURT OF VENTURA COUNTY

[Title omitted]

ORDER ALLOWING APPEAL—Filed May 31, 1945

The petition of the Defendant, F. O. Robertson, for an appeal in the above cause to the Supreme Court of the United States from the Superior Court of the State of California in and for the County of Ventura, and the Assignment of Errors filed therewith and the record of said cause having been considered, it is

Ordered that an appeal be and is allowed to the Supreme Court of the United States from the Superior Court of the State of California, as prayed in said Petition, and that the clerk of the said Superior Court of the State of California shall prepare and certify a Transcript of the Record and proceedings in the above cause and transmit the same to the Supreme Court of the United States within 30 days from the date hereof.

The said Appellant is hereby admitted to bail upon giving cash bond in the sum of $200.00, which said sum has [fol. 103] been deposited by the said Appellant and the same is hereby approved by the Court.

Dated this 29th day of May, 1945.

(Signed) Louis C. Drapeau, Judge of the above entitled Superior Court.

Service of the foregoing Order Allowing Appeal and the receipt of a copy thereof are hereby acknowledged this 29th day of May, 1945.

(Signed) M. Arthur Waite, by Donald D. Roff, Attorneys for Plaintiff and Defendant.

[fols. 104-107] Citation in usual form showing service on M. Arthur Waite, filed June 8, 1945, omitted in printing.

[fol. 108] [File endorsement omitted]

IN THE SUPERIOR COURT OF VENTURA COUNTY

[Title omitted]

PRAECIPE FOR THE RECORD—Filed May 31, 1945.

To the Clerk:

Please prepare a transcript of the record in the above entitled cause in the matter of the appeal therein to the Supreme Court of the United States and include in said transcript in the order given below, the following:

I

Complaint (The People of the State of California vs. F. O. Robertson, No. 8133).

II

Notice of Appeal, filed September 29, 1944.

III

Statement on Appeal, filed September 29, 1944.

IV

Reporter's Transcript of Proceedings in Justice's Court of Ventura Township, introduced in evidence herein.

[fol. 109]

V

The entire record transferred to the Superior Court from the said Justice's Court.

VI

Minutes of the Superior Court.

VII

Memorandum of Opinion, filed April 21, 1945.

VIII

Judgment of the Superior Court.

IX

Petition for Order Allowing Appeal.

X

Assignment of Errors on Appeal.

XI

Jurisdictional Statement.

XII

Order Allowing Appeal.

XIII

Citation.

XIV

Statement Directing Attention to the Provisions of Paragraph three, Rule Twelve of the United States Supreme Court Rules.

XV

This Praecipe for the Record.

[fols. 110-113] Dated this 29th day of May, 1945.

(Signed) Robert R. Weaver, Attorney for Appellant.

Service of the Foregoing Praecipe for transcript of the record and the receipt of a copy thereof are hereby acknowledged this 29th day of May, 1945.

(Signed) M. Arthur Waite, by Donald D. Roff, Attorneys for Plaintiff and Respondent.

[fol. 114] In the Superior Court of Ventura County

Order Extending Time—Filed June 21, 1945

It Is Hereby Ordered, good cause having been shown, that the time within which the above entitled cause may be docketed and the record thereof filed is hereby extended to and including the 30th day of July, 1945.

Dated this 20th day of June, 1945.

Wm. D. Dehy, Judge of the above entitled court.

[File endorsement omitted.]

[fol. 115] In the Supreme Court of the United States

Statement of Points to Be Relied Upon on Appeal—Filed July 28, 1945

Comes now F. O. Robertson, appellant in the above entitled cause and states that the points upon which he intends to rely on appeal in this case are as follows:

I

The laws under which the said appellant was tried and convicted are contrary to and in conflict with Art. 1, Sec. 8, Par. 3 of the Constitution of the United States, known as the Commerce Clause, and in violation of the Fourteenth Amendment to the Constitution.

II

The state cannot require the consent of a person or corporation to engage in interstate commerce with its citizens.

III

The mere solicitation of an order for shipment of an article into a state direct to the party giving the order is a transaction in interstate commerce and the state cannot require its consent therefor nor prohibit it.

IV

The law of a state which attempts to regulate the activities of a corporation or person engaged in interstate com-

merce in another state is in violation of the commerce clause [fol. 116] of the Constitution.

V

The law of a state which prohibits transactions in interstate commerce is in violation of the Commerce Clause of the Constitution.

VI

The law of a state which discriminates between domestic and foreign dealers and corporations either by way of regulation or taxation is in violation of the Commerce Clause of the Constitution and in violation of the Fourteenth Amendment thereto.

VII

The mere solicitation of an order for insurance for a nonadmitted insurer in a state does not amount to "doing business" within the state.

VIII

The acts of the defendant for which he was convicted, were performed in connection with interstate transactions which constitute interstate commerce.

Dated this 12 day of July, 1945.

Allan K. Perry, Phoenix, Arizona, Counsel for Appellant.

Robert R. Weavers, Phoenix, Arizona, Of Counsel.

[fols. 117-118] Affidavit of service omitted in printing.

[fol. 119] In the Supreme Court of the United States

Designation of Parts of the Record Considered Necessary by the Appellant—Filed July 28, 1945

Comes now the above named appellant and respectfully designates the following portions of the record as necessary for consideration of said appeal:

I

Complaint (The People of the State of California vs. F. O. Robertson. No. 8133).

II

Notice of Appeal, filed September 29, 1944.

III

Statement on Appeal, filed September 29, 1944.

IV

Reporter's Transcript of Proceedings in Justice's Court of Ventura Township, introduced in evidence herein.

V

The entire record transferred to the Superior Court from the said Justice's Court.

VI

Minutes of the Superior Court.

VII

Memorandum of Opinion, filed April 21, 1945.

[fol. 120] VIII

Judgment of the Superior Court.

IX

Petition for Order Allowing Appeal.

X

Assignment of Errors on Appeal.

XI

Jurisdictional Statement.

XII

Order Allowing Appeal.

XIII

Citation.

XIV

Statement Directing Attention to the Provisions of Paragraph Three, Rule Twelve of the United States Supreme Court Rules.

XV

Praecipe for the Record.

XVI

Petition for Order Enlarging Time.

XVII

Order Enlarging Time.

XVIII

Statement of Points To Be Relied Upon on Appeal, filed herein.

XIX

This Designation of Parts of the Record Considered Necessary by the Appellant.

Dated this 12 day of July, 1945.

Allan K. Perry, Phoenix, Arizona, Counsel for Appellant.

Robert R. Weaver, Phoenix, Arizona, of Counsel.

[fol. 121] Affidavit of service omitted in printing.

[fol. 122] [File endorsement omitted.]

[fol. 123] SUPREME COURT OF THE UNITED STATES

ORDER NOTING PROBABLE JURISDICTION—October 8, 1945

The statement of jurisdiction in this case having been submitted and considered by the Court, probable jurisdiction is noted.

Mr. Justice Jackson and Mr. Justice Burton took no part in the consideration or decision of this question.

Endorsed on cover: File No. 49,977. California, Superior Court in and for the County of Ventura. Term No. 274. F. O. Robertson, Appellant, vs. The People of the State of California. Filed July 28, 1945. Term No. 274, O. T. 1945.